

57-8a-217. Association rules, including design criteria -- Requirements and limitations relating to board's action on rules and design criteria -- Vote of disapproval.

(1) (a) Subject to Subsection (1)(b), a board may adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce the rules and design criteria of the association.

(b) A board's action under Subsection (1)(a) is subject to:

(i) this section;

(ii) any limitation that the declaration imposes on the authority stated in Subsection (1)(a);

(iii) the limitation on rules in Sections 57-8a-218 and 57-8a-219;

(iv) the board's duty to exercise business judgment on behalf of:

(A) the association; and

(B) the lot owners in the association; and

(v) the right of the lot owners or declarant to disapprove the action under Subsection (4).

(2) Except as provided in Subsection (3), before adopting, amending, modifying, canceling, limiting, creating exceptions to, or expanding the rules and design criteria of the association, the board shall:

(a) at least 15 days before the board will meet to consider a change to a rule or design criterion, deliver notice to lot owners, as provided in Section 57-8a-214, that the board is considering a change to a rule or design criterion;

(b) provide an open forum at the board meeting giving lot owners an opportunity to be heard at the board meeting before the board takes action under Subsection (1)(a); and

(c) deliver a copy of the change in the rules or design criteria approved by the board to the lot owners as provided in Section 57-8a-214 within 15 days after the date of the board meeting.

(3) (a) Subject to Subsection (3)(b), a board may adopt a rule without first giving notice to the lot owners under Subsection (2) if there is an imminent risk of harm to a common area, a limited common area, a lot owner, an occupant of a lot, a lot, or a dwelling.

(b) The board shall provide notice under Subsection (2) to the lot owners of a rule adopted under Subsection (3)(a).

(4) A board action in accordance with Subsections (1), (2), and (3) is disapproved if within 60 days after the date of the board meeting where the action was taken:

(a) (i) there is a vote of disapproval by at least 51% of all the allocated voting interests of the lot owners in the association; and

(ii) the vote is taken at a special meeting called for that purpose by the lot owners under the declaration, articles, or bylaws; or

(b) (i) the declarant delivers to the board a writing of disapproval; and

(ii) (A) the declarant is within the period of declarant control; or

(B) for an expandable project, the declarant has the right to add real estate to the project.

(5) (a) The board has no obligation to call a meeting of the lot owners to

consider disapproval, unless lot owners submit a petition, in the same manner as the declaration, articles, or bylaws provide for a special meeting, for the meeting to be held.

(b) Upon the board receiving a petition under Subsection (5)(a), the effect of the board's action is:

- (i) stayed until after the meeting is held; and
- (ii) subject to the outcome of the meeting.

(6) During the period of administrative control, a declarant may exempt the declarant from association rules and the rulemaking procedure under this section if the declaration reserves to the declarant the right to exempt the declarant.

Enacted by Chapter 355, 2011 General Session